IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 15430 of 2004

Between:

Y. Purushotham, S/o Late Y.Narasaiah,

Aged about 36 years, Occu: Business,
R/o Pastapur Village, Zahirabad Mandal,

Medak District.

..... PETITIONER

AND

1. The Mandal Revenue Officer, Zahirabad Mandal, Medak District
2. The A.P. State Finance Corporation, Chirag Ali Lane, Hyderabad, represented by its Managing Director.
3. The Senior Branch Manager, A.P.State Financial Corporation, 3-4-21, Main Road, Sangareddy,

Medak District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the distraint order in File No. J/6976/2000, dated 9-8-2004 issued by the 1st respondent as illegal and without jurisdiction and consequently set aside the same.

Counsel for the Petitioner: MR.P.ROY REDDY

Counsel for the Respondent No.1.: GP FOR REVENUE

Counsel for the Respondent Nos.2 and 3: Y.N.Lohita (Standing Cousnel)

The Court, at the stage of admission, made the following:

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O R D E R:

Heard the learned counsel for the petitioner and the learned Standing counsel for 2nd respondent-Corporation.

The case of the petitioner is that he obtained a loan from the 2nd respondent for purchase of a 'Tata 608' vehicle and paid some installments and committed default thereafter. Prior to that, he also obtained loan for running a mill by mortgaging certain properties and by depositing some documents with the 2nd respondent. It is his grievance that though the loan pertaining to the mill was cleared, the 2nd respondent did not release the documents, on the ground that the amount was due under the subsequent loan, which was taken for purchasing a Tata 608 vehicle. While so, the 1st respondent issued a distraint order, dated 9.8.2004, under Section 8 of the A.P. Revenue Recovery Act, 1864, informing that if the due amount is not discharged, the distrained property will be brought to public sale. Questioning the said order, the present writ petition is filed contending that the time barred debt cannot be recovered under the Revenue Recovery Act, and hence, the impugned order is liable to be set aside.

Learned counsel for 2nd respondent, on the other hand, submits that since the mortgaged properties are in the hands of the 2nd respondent, he addressed a letter to the District collector not to mutate the land in favour of the illegal transferees and revert the mutation, if any, as they are the mortgaged properties. The 1st respondent instead of issuing necessary instructions not to effect the mutation of the properties mortgaged, issued the distraint order. In view of the same, he expressed no objection for setting aside the distraint order with a liberty to proceed against the petitioner, for due recovery of the amount, after determining the same.

Taking the totality of the circumstances into account, the impugned order is set aside. However, it is always open for the 2nd respondent to proceed against the petitioner to recover the loan amount, if permissible under law.

Accordingly, the writ petition is allowed. There shall be no order as to costs.

07.10.2004

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To

1. The Mandal Revenue Officer, Zahirabad Mandal,
Medak District

2. The Managing Director,
A.P.State Finance Corporation,

Chirag Ali Lane, Hyderabad,

3. The Senior Branch Manager, A.P.State Financial Corporation,
3-4-21, Main Road, Sangareddy,

Medak District.

4. Two CCs to the Government Pleader for Revenue, High Court

Buildings, High Court of A.P., Hyderabad (O.U.T).

5. 2CD copies.